## REMARKS/ARGUMENTS

### 35 U.S.C. §112 rejection

In order to expedite prosecution, Applicants have amended claim 9 in order to over come the rejection under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter. Support for the amendment and specific definition language for claim 9 can be found on page 4, line 1 to page 8, line 30 of the specification. Accordingly, Applicants respectfully submit that claims 9-11 are in condition for allowance.

### 35 U.S.C. §102 rejection

Claims 9-11 are rejected under 35 U.S.C. §102(b) as being anticipated by Jaeger U.S. Patent No. 5, 297,502 ("Jaeger"). Applicants are well aware of Jaeger. Applicants disclosed Jaeger in their original U.S. application filing on December 7, 2001.

Jaeger specifically relates to an inhalation system for supplying gasdirectly to the respiratory tract of a plurality of experimental animals. The present invention, however, specifically relates to anaesthetizing animals via a ventilation system for use in a surgery suite. Unlike Jaeger, the current ventilation system was modified in order to allow it to be used on small animals such as rats. As disclosed in the present invention, volatile liquid anaesthetic must be vaporized using a vaporizer prior to its use with humans or animals as an

anaesthetic. However, prior art anaesthetic systems using vaporizers are designed for use with humans or large animals. Accordingly, a part of the novelty of the present invention's system was that it is modified to accommodate smaller animals. (See page 2 and tables 1-3 of the specification).

Jaeger does not teach, disclose, or suggest using its invention for anesthetic purposes and further more its system, unlike the present invention, does not account for the required modifications necessary for use in animals that require a volatile liquid anaesthetic to be vaporized. It is well settled in case law that prior patents are references only for what they clearly disclose or suggest. Additionally, it is not proper use of a patent as a reference to modify its structure to one which prior art references do not suggest. *In re Randol and Redford*, 425 F.2d 1268, 165 U.S.P.Q. 586, 588 (C.C.P.A. 1970). A reference must be considered not just for what it expressly teaches, but also for what it fairly suggests to one who is unaware of the claimed invention. *In re Baird*, 16 F.3d 380, (Fed. Cir. 1994).

On page 9 of the present invention's specification, Applicants also presents the schematic differences between the prior art systems versus the present ventilation system. Figure 1 depicts a prior art system similar to Jaeger.

In view of the foregoing, it is therefore respectfully submitted that 35 U.S.C. 102(b) rejections of claims 9-11 be withdrawn and that claims 9-11 be allowed.

## CONCLUSION

In view of the amendments and remarks herein, Applicants believe that each ground for rejection made in the instant application has been successfully overcome, and that all the pending claims are in condition for allowance. Withdrawal of the Examiner's rejections and objections, and allowance of the current application are respectfully requested.

The Examiner is invited to telephone the undersigned in order to resolve any issues that might arise and to promote the efficient examination of the current application.

Respectfully submitted,

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